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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/806,542

07/20/2001

Walter Aigner

P010104

1296

26574

7590

07/30/2004

SCHIFF HARDIN, LLP  
PATENT DEPARTMENT  
6600 SEARS TOWER  
CHICAGO, IL 60606-6473

EXAMINER

MARIAM, DANIEL G

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/806,542

**Applicant(s)**

AIGNER ET AL.

**Examiner**

DANIEL G MARIAM

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Abstract***

1. The abstract of the disclosure is objected to because it contains two paragraphs. The abstract should be in narrative form and generally limited to a single paragraph within the range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).

### ***Specification***

2. The specification is objected to because of the following informalities: the specification contains unreadable texts because of holes at the top of the pages. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### **Claim 1:**

Lines 3-4 recite the limitation “along a vertical by histogram formation along said lines” is vague. It is unclear what “along a vertical” supposes to include. Does this mean along a vertical direction or line?

Line 5 recites the limitation “smoothing said brightness distribution is smoothed”. Does this mean the brightness distribution is smoothed twice? If not, the Examiner kindly suggests the deletion of “is smoothed”.

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Line 6 recites the limitation “a function obtained in this way”. What function is applicant referring to and in what particular way the function is being obtained? Is the function the brightness distribution of the image?

Line 9 recites the limitation “based on these extremes”. What extremes?

Line 11 recites the limitation “maximum with a minimum . . .” Are these the maximum and minimum values of the brightness distribution?

Lines 12-16 recite the limitations “minimum function, maximum function, numeral 15, and numeral 2”. It is unclear how the specific numbers 15 and 2 are used. Are they fixed or variable, and what do they represent, and how are they derived within the scope of the claimed invention? What constitutes the function minimum and the function maximum in light of the above-identified function? Please clarify all of the above major problems.

Claim 2:

Line 5 recites the limitation “abrupt rise in said function”. What event initiates or what has to occur for the abrupt rise in the function? Please clarify.

Since claim 3 directly depend on claim 1, it is also rejected under 35 USC 112, second paragraph, for the same reason set forth above for claim 1.

***Conclusion***

5. The prior art made of record and not relied (**pending the clarification of the above-identified problems under 35 USC 112, second paragraph**) upon is considered pertinent to applicant's disclosure. US Patent Numbers: 4558461, 5003614, 5521985, 5513304, 5689585, 5889884, 6256408, and 6470094.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL G MARIAM whose telephone number is 703-305-4010. The examiner can normally be reached on M-F (7:00-4:30) FIRST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEO BOUDREAU can be reached on 703-305-4607. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**DANIEL MIRIAM**  
**PRIMARY EXAMINER**  
July 23, 2004